IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 4TH JANUARY 2007 / 14TH PAUSHA 1928

OP.No. 26623 of 2002(T)

PETITIONER:

K.G.SABU, MANAGING PARTNER,
M/S. SABEENA INDUSTRIES, PLOT NO. 40,
INDUSTRIAL DEVELOPMENT AREA, KOCHU VELI,
THIRUVANANTHAPURAM

BY ADV. SRI.P.S.BIJU
SMT.HEMA ANANTHAKRISHNAN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT, GOVT. OF KERALA, THIRUVANANTHAPURAM

2 . THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, THIRUVANANTHAPURAM

3. THE SUB INSPECTOR OF POLICE, SANGHUMUGHAM, THIRUVANANTHAPURAM.

*** ADDL.R4 & R5 IMPLEADED**

4. PRADEEP.S, SARADA BHAVAN, KOCHULLOOR, MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM.

5. N.RAJAPAN, T.C.NO.31/512, 21 YMA/ROAD, CHACKAI, THIRUVANANTHAPURAM.

*** ARE IMPLEADED AS ADDL.R4 AND R5 VIDE ORDER 23.10.02 IN CMP. 51058.02 IN OP. NO.26623/03.**

BY GOVERNMENT PLEADER SRI.BASANT BALAJI
SRI.R.S.KALKURA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 26623 OF 2002 T

Dated this the 4th day of January, 2007

J U D G M E N T

The petitioner is the allottee of 50 cents of land in the industrial development area, Kochuveli, Thiruvananthapuram out of which 18 cents have been purchased by him outright. According to the petitioner, he has started an industry there which is flourishing well as evidenced by the documents produced by him. The petitioner alleges that in spite of that fact, the additional 4th respondent one day came to the property allotted to the petitioner and forcibly occupied the same and constructed a compound wall on a portion of the property allotted to the petitioner. Later on, the petitioner came to understand that this was consequent upon a re-allotment made by the 2nd respondent on the ground of non user of the land by the petitioner for the purpose for which the same has been allotted to him. The petitioner contends that before taking such an action the petitioner was not served with any notice nor was he afforded an opportunity of being heard. The petitioner also submits that he has not even been served with a copy of the order by which the resumption has been ordered. In the above circumstances, the petitioner has sought the following reliefs:

> (i) issue a writ of certiorari or any other writ or order and to quash all proceedings for re-allotting any portion of 50 cents of land in Ext.P2;

(ii) issue any appropriate writ, direction or order and stay any construction in plot No.40 belonging to the petitioner under Exts.P2 and P3 pending disposal of the OP.

2. The Government Pleader has filed a counter affidavit in which he disputes the allegation that the petitioner has not been served with any notice before ordering resumption of the land. However, no copies of those notices have been produced along with the counter affidavit nor does it state the date of such notices. No proof of service of any notice has also been furnished.

3. In the above circumstances, I am satisfied that the respondents should re-examine the matter after issuing a notice to the petitioner showing the reasons for which the 2nd respondent proposed to resume the land allotted to the petitioner and afford an opportunity to the petitioner to show cause against the same as also a hearing. Ordered accordingly. Till final orders are passed pursuant thereto, further proceedings pursuant to the orders stated to have been passed resuming the land shall be kept in abeyance.

The original petition is disposed of as above.

(S. SIRI JAGAN, JUDGE)

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S. SIRI JAGAN , J.

OP No.26623/02 T

J U D G M E N T

4th January, 2007